



February 18, 2005

HOUSE BILL No. 1009

DIGEST OF HB 1009 (Updated February 16, 2005 2:59 pm - DI 109)

Citations Affected: IC 6-3.1; IC 20-3.1; noncode.

Synopsis: School of choice. Provides an income tax credit for education expenditures for children enrolled in K-12 at a school of choice. Defines school of choice to be: (1) a nonpublic school; or (2) a public school, if it is not the public school where the child has legal residence. Limits the credit amount per taxpayer. Makes the credit refundable. Requires the department of education to withhold state tuition support for each qualifying dependent. Creates a scholarship for children to attend a school of choice if the child's resident public school is either required to provide supplemental educational services for the student or to institute corrective action under the No Child Left Behind Act. Requires the department of education to withhold from state tuition support an amount equal to the school's general fund amount (state and local) for each scholarship student.

Effective: July 1, 2005.

Behning

January 19, 2005, read first time and referred to Committee on Education.
February 17, 2005, amended, reported — Do Pass.

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HB 1009—LS 7708/DI 109+



February 18, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1009

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]:

4 **Chapter 29. Family Education Tax Credit**

5 **Sec. 1. As used in this chapter, "ADM" has the meaning set**
6 **forth in IC 21-3-1.6-1.1 and includes adjusted ADM.**

7 **Sec. 2. As used in this chapter, "dependent" has the meaning set**
8 **forth in Section 152(a) of the Internal Revenue Code.**

9 **Sec. 3. As used in this chapter, "qualified education**
10 **expenditures" means expenditures made by a taxpayer during the**
11 **twelve (12) month period beginning July 1 and ending June 30 of**
12 **the taxable year for a dependent with respect to a school of choice**
13 **for any of the following:**

14 (1) Fees for academic tuition or instruction.

15 (2) If the dependent is not enrolled in a school that charges
16 tuition, expenditures for computer software, textbooks,
17 workbooks, curricula, school supplies other than personal

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computers, and other written materials used primarily for academic instruction and for academic tutoring.

(3) Expenditures for transporting the dependent to and from the school of choice where the dependent is enrolled, excluding transportation for extracurricular activities.

However, the total of a taxpayer's expenditures described in this section must be reduced by the amount of a scholarship received under IC 20-3.1-16 to determine qualified educational expenditures for purposes of sections 7(1) and 8(b)(1) of this chapter.

Sec. 4. As used in this chapter, "school of choice" is either a:

- (1) nonpublic school (as defined in IC 20-10.1-1-3); or
- (2) public school (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but that is not the dependent's school of legal settlement for purposes of the general school tuition support formula.

Sec. 5. As used in this chapter, "taxpayer" means:

- (1) an individual who is; or
- (2) an individual and the individual's spouse, in the case of a joint return, who are;

subject to the adjusted gross income tax.

Sec. 6. This chapter applies to a taxpayer who has a dependent who has legal settlement in a school corporation located in Indiana.

Sec. 7. Except as provided in section 8 of this chapter, a taxpayer who makes qualified education expenditures is entitled to a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year. The credit to which the taxpayer is entitled for all the taxpayer's dependents combined is equal to the lesser of:

- (1) the qualified education expenditures of the taxpayer; or
- (2) the following amount per taxpayer:

Taxable Year Ending In	Amount
2006 and 2007	\$1,000
2008 and 2009	\$1,500
2010 and 2011	\$2,000
2012 and 2013	\$2,500
2014 and thereafter	\$3,000

The credit amount under this subsection with respect to a dependent is reduced by any credit amount with respect to other dependents under section 8 of this chapter.

Sec. 8. (a) This section applies to the determination of a credit for any taxpayer with respect to any dependent who is not enrolled in a public school in 2005 but who is eligible for enrollment in a public school in 2005.

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(b) A taxpayer described in subsection (a) is not entitled to a credit under this chapter for expenditures made before July 1, 2007, with respect to the dependent described in subsection (a). The credit for such a taxpayer for expenditures made with respect to the dependent after June 30, 2007, is equal to the lesser of:

- (1) the qualified education expenditures of the taxpayer; or
- (2) the following amount per taxpayer:

Taxable Year Ending In	Amount
2008 and 2009	\$500
2010 and 2011	\$1,000
2012 and 2013	\$1,500
2014 and 2015	\$2,000
2016 and 2017	\$2,500
2018	\$3,000

(c) Before December 1 each year, the department shall provide to the department of education the number of dependents who qualify a taxpayer for a credit under this section. The department of education shall reduce the next six (6) distributions of tuition support on a statewide average basis by the amount of the credits granted under this section for the previous calendar year. The calendar year cap under IC 21-3-1.7-9 shall be reduced for that calendar year by the same amount.

(d) This section expires for taxable years ending after 2018.

Sec. 9. (a) Before December 1 each year, the department shall provide to the department of education the number of dependents who qualify a taxpayer for a credit under section 7 of this chapter who have legal settlement in each school corporation.

(b) Notwithstanding the state tuition support formula and laws governing the counting of pupils in ADM, if a dependent:

- (1) qualifies a taxpayer for a credit under this chapter; and
- (2) is not already being counted in ADM of the school corporation in which the dependent has legal settlement;

the department of education shall for tuition support distributions count the dependent in the ADM of the school corporation in which the dependent has legal settlement. However, when making the distribution to that school corporation, the department of education shall subtract from the total of all components of state tuition support and categorical grants, except special education grants, the average amount per ADM for the distribution.

(c) This section applies to a school corporation for purposes of calculating tuition support distributions regardless of how the scholarship student might otherwise be treated under the school

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1 funding formula.

2 Sec. 10. The department shall develop a process and create
3 forms that will:

4 (1) permit the taxpayer to assign credits under this chapter to
5 the school of choice in which the taxpayer's dependent is
6 enrolled; and

7 (2) allow the school that receives an assignment of credits to
8 claim and receive the amount of the credit as soon as the
9 taxpayer has filed the required income tax return for the
10 taxable year.

11 Sec. 11. If the amount of the credit provided by this chapter that
12 a taxpayer uses during a particular taxable year exceeds the sum
13 of the taxes imposed on the taxpayer by IC 6-3 for the taxable year
14 after the application of all credits that under IC 6-3.1-1-2 are to be
15 applied before the credit provided by this chapter, the excess shall
16 be returned to the taxpayer as a refund.

17 Sec. 12. Acceptance by a taxpayer of a credit for qualified
18 education expenditures for a dependent under this chapter does not
19 provide any governmental entity or agency of the state with
20 jurisdiction, authority, or control over the dependent's educational
21 provider.

22 SECTION 2. IC 20-3.1-16 IS ADDED TO THE INDIANA CODE
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2005]:

25 **Chapter 16. Freedom to Achieve Scholarship Program**

26 Sec. 1. As used in this chapter, "ADM" has the meaning set
27 forth in IC 21-3-1.6-1.1 and includes adjusted ADM.

28 Sec. 2. As used in this chapter, "eligible student" means a
29 student who meets the requirements of section 6 of this chapter.

30 Sec. 3. As used in this chapter, "school of choice" means a
31 nonpublic school (as defined in IC 20-10.1-1-3) or a public school
32 (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but
33 that is not the dependent's school of legal settlement for purposes
34 of the general school tuition support formula, if the school:

35 (1) is accredited by the state of Indiana or a national
36 accrediting body;

37 (2) is not required to provide supplemental educational
38 services for its students or to institute corrective action under
39 20 U.S.C. 6316;

40 (3) complies with all health and safety laws that apply to
41 public or nonpublic schools, respectively;

42 (4) holds a valid occupancy permit if required; and

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(5) certifies that it will not discriminate in admissions on the basis of race, color, or national origin.

Sec. 4. As used in this chapter, "scholarship" refers to the scholarship established by section 5 of this chapter.

Sec. 5. There is established the freedom to achieve scholarship program to assist parents and guardians to pay the costs of their child attending a school of choice.

Sec. 6. A student who meets the following requirements is eligible for a scholarship for a school year:

(1) The student was enrolled in a public school during the school year preceding the first school year for which a scholarship is sought.

(2) The public school attended by the student under subdivision (1) was either required to provide supplemental educational services for the student or was required to institute corrective action under 20 U.S.C. 6316 for the year the student attended the public school.

(3) The student has legal settlement in a school corporation located in Indiana.

(4) The student is enrolled in a school of choice for the school year for which a scholarship is sought.

Sec. 7. The parent or guardian of an eligible student seeking a scholarship must apply to the department. The department shall prescribe the form of the application. The application must be filed after June 15 and before July 16 for a scholarship for the upcoming school year. The department shall make a determination whether an applicant has an eligible student within thirty (30) days after the application is filed. The amount of the scholarship for each eligible student is the lesser of:

(1) the cost of tuition, textbooks, and other mandatory fees, not including fees for extracurricular activities, charged by the school of choice for the eligible student; or

(2) the sum of the average amount per ADM with respect to the public school in which the dependent is eligible for enrollment for:

(A) all components of state tuition support and categorical grants, except special education grants; plus

(B) the ad valorem property taxes for the school corporation's general fund;

for the school year for which the scholarship applies. The department shall provide the full scholarship amount by paying equal installments to the school of choice at the same times the

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department makes a tuition support distribution to the public school in which the eligible student has legal settlement. If an eligible student withdraws from a school of choice, the school of choice shall notify the department within ten (10) days. The department shall thereafter terminate payments to the school of choice for that student.

Sec. 8. To receive a scholarship distribution, a school of choice must agree with the department to do the following:

(1) Determine before enrolling any potential scholarship students the specific number of scholarship students that will be admitted, and, if applicants under the program exceed the determined number of spaces available at any particular grade level, conduct a random selection process to determine those students that are admitted to that grade level. Exceptions to this random selection may be made to accommodate siblings of students who are already enrolled or selected for enrollment in the school.

(2) Not charge any tuition or other fees in excess of the scholarship amount.

(3) Not charge any tuition or other fees under the scholarship program that exceed the standard rates charged to other students who pay tuition to enroll in the school.

(4) Not refund, rebate, or share a student's scholarship with a parent or the student in any manner.

(5) Use a student's scholarship only for educational purposes.

(6) Provide regular academic progress reports to the parents of students enrolled under the scholarship program.

Sec. 9. (a) Notwithstanding the state tuition support formula and laws governing the counting of pupils in ADM, an eligible student who:

(1) is provided a scholarship under this chapter; and

(2) is not already being counted in ADM of the school corporation in which the dependent has legal settlement;

shall for purposes of calculating tuition support distributions, continue to count in the ADM of the school corporation in which the dependent has legal settlement. However, when making tuition support distributions to that school corporation, the department shall reduce the amount to be distributed.

(b) If the amount determined under section 7(1) of this chapter is greater than the amount determined under section 7(2) of this chapter, the reduction under subsection (a) for each scholarship student is the amount determined under section 7(2) of this

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chapter. Otherwise, the reduction is the greater of the amount determined under:

(1) section 7(1) of this chapter; or

(2) section 7(2)(A) of this chapter.

(c) Fifty percent (50%) of the reduction shall be applied to the October distribution to the school corporation and the remaining fifty percent (50%) shall be applied to the distribution in the following June.

(d) This section applies to a school corporation for purposes of calculating tuition support distributions regardless of how the scholarship student might otherwise be treated under the school funding formula.

Sec. 10. An amount sufficient to provide scholarships and grants under this chapter shall be paid from the state general fund.

SECTION 3. [EFFECTIVE JULY 1, 2005] IC 6-3.1-29, as added by this act, applies to taxable years beginning after December 31, 2005.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1009, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1009 as introduced.)

BEHNING, Chair

Committee Vote: yeas 6, nays 4.

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